Australia

Country Reports on Human Rights Practices - 2001
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Australia is a longstanding constitutional democracy with a federal parliamentary form of government in which citizens periodically choose their representatives in free and fair multiparty elections. The Government respects the constitutional provisions for an independent judiciary in practice.

Federal and state police are under the firm control of the civilian authorities and carry out their functions in accordance with the law. There were occasional reports that police committed abuses.

The country has a population of approximately 19,350,000. Its highly developed market-based economy, which includes manufacturing, mining, agriculture, and services, provides most citizens with a high per capita income. A wide range of government programs offers assistance for disadvantaged citizens.

The Government generally respects the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. During the year, six persons died of gunshot wounds that occurred while in police custody, while being taken into custody, or while trying to evade capture by police. There were occasional reports that police beat or otherwise abused persons. The Government administers many programs to improve the socioeconomic conditions of Aboriginals and Torres Straits Islanders, who together form about 2 percent of the population, and to address longstanding discrimination against them. Societal violence and discrimination against women are problems that are being addressed actively. There were some instances of forced labor in the past, but none were identified during the year, and trafficking in women is a limited problem, which the Government is taking steps to address. Leaders in the ethnic and immigrant communities expressed concern that increased numbers of illegal immigrants and violence at migrant detention centers contribute to instances of vilification of immigrants and minorities. During the year, the country tightened its immigration laws to deter illegal migrants. This effort followed an incident in August in which a Norwegian freighter carrying rescued individuals who wished to seek asylum was denied permission to land in the country after entering territorial waters around Christmas Island.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. However, 91 persons died in prisons, in police custody, or during police attempts to detain them (see Section 1.c.). Eight persons died as a result of injuries sustained while fleeing police during high-speed pursuit. The police shot and killed six persons; coroners' inquests into these deaths were ongoing at year's end.

Officials also confirmed the deaths of three persons in immigration detention facilities during the year and another in December 2000. On June 22, a man in immigration detention died in a Perth Hospital, where he had been receiving treatment for cancer. On July 26, a man died in the Villawood detention center near Sydney 1 day after arriving in the country. At year's end, a coroner's inquest being conducted into the circumstances of his death had not been completed. On September 26, a woman died in Villawood detention center; at year's end, a coroner's inquest was being conducted.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits all such practices; however, there were occasional reports that police mistreated suspects in custody. Some indigenous groups charge that police harassment of indigenous people is pervasive and that racial discrimination among police and prison custodians persists. Amnesty International (AI) reported several incidents that involved such abuses. State and territorial police forces have internal affairs units that investigate allegations of abuse and report to a civilian ombudsman.

In 2000 there were 91 deaths in custody or in the process of apprehension, an increase of 6 over the number of such deaths in 1999. In four cases, the cause of death was not identified. Of the other 87 cases, 31 deaths were attributed to suicide by hanging, 25 deaths were due to natural causes, 10 were due to unspecified injuries, 8 were the result of injuries sustained during high-speed car chases, 6 were shot by police, 6 were due to drug abuse, and 1 due to self-inflicted gunshot wounds.

In all cases where deadly force was used, the circumstances of the case were reviewed and police have been sanctioned in cases where abuses have been found to occur. There were no cases during the year for which police were disciplined for the unjustified use of force.

According to a report by the Australian Bureau of Statistics, as of June 30, 2000, aboriginal adults represent 1.6 percent of the adult population but constituted approximately 19 percent of the total prison population, or approximately 14 times the nonindigenous rate of incarceration. During 2000 Aboriginals accounted for 17 (or about 19 percent) of the 91 deaths in custody. Five Aboriginals died in police custody or during attempts by police to detain them. Of the five, four died from injuries and one died of natural causes. Eleven indigenous adults died in prison during 2000. Of these 11 deaths, 8 were suicides by hanging and 3 from natural causes. A 15-year-old indigenous youth hanged himself while in juvenile detention during 2000.

Prison conditions meet international standards, and the Government permits visits by independent human rights monitors. Within the country, each state and territory is responsible for managing its prisons. In June a Tasmanian state coroner's inquest called for improved safety procedures after a prisoner's death in custody. The Tasmanian government over the next 6 months took specific steps to implement extensive reforms to prison operations.

The federal Government oversees six immigration detention facilities located in the country and several offshore facilities in the Australian territory of Christmas Island and in the countries of Nauru and Papua New Guinea. These facilities were established to detain individuals who attempt to enter the country unlawfully, pending determination of their applications for refugee status. In November the 6 onshore centers held 2,736 detainees, of whom 910 were awaiting deportation. Several hundred additional detainees were being held in the offshore facilities; at year's end, there had been no decisions on the refugee status of these detainees.

Media reports, confirmed by the Government, indicated that at least three persons died while in immigration detention during the year and another died in December 2000 (see Section 1.a.). Hunger strikes and protests occurred during the year at immigration detention facilities over allegedly poor sanitary conditions, inadequate access to telephones, and limited recreational opportunities. In January a riot at the Port Hedland center in the northwest resulted in injuries to three staff members; rioters were subdued with pepper spray, but no detainees were injured. In April a detention center guard pled guilty to charges of assaulting a detainee; he received a suspended sentence of 15 months and 2 years of probation. In May a riot took place at the Port Hedland Detention Center in which guards used tear gas and batons to subdue the detainees; however, there were no significant injuries. In June a West Australian court sentenced a detainee at the Curtin Detention Center to 4 years in jail for inciting a riot that caused property damage and risk to detainees. In November and December, riots and fires occurred at the Woomera Detention Center resulting in property damage and injuries.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions in practice.

In June the Australian Council of Civil Liberties urged a review of the mandatory detention procedures for unlawful arrivals in effect since 1994, asserting a lack of international precedent for detaining asylum seekers and a need for independent oversight of the facilities. The Government responded by noting that immigration detention facilities are monitored by the Department of Immigration and Multicultural and Indigenous Affairs, using standards developed in consultation with the Commonwealth Ombudsman's office and that facilities are

open to inspection by the Ombudsman's office and the independent federal Human Rights and Equal Opportunity Commission (HREOC) at any time. During the year, the Government granted the U.N. High Commission on Refugees (UNHCR) access to the detention facilities.

In November 2000, HREOC asserted that the Government was in breach of the U.N. International Covenant on Civil and Political Rights for detaining a number of permanent resident convicts indefinitely until they could be deported. HREOC followed with a report in March alleging that as many as 70 permanent resident convicts were in custody awaiting deportation, despite having already completed their prison sentences.

The law provides that law enforcement officials may arrest persons without a warrant if there are reasonable grounds to believe a person has committed an offense. Law enforcement officials can seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear. Once individuals are arrested, they must be informed immediately of the grounds of arrest and given a "criminal caution," that is, informed of their rights. Once taken into custody a detainee must be brought before a magistrate for a bail hearing at the next sitting of the court. Persons charged with criminal offenses generally are released on bail except when charged with an offense carrying a penalty of 12 months imprisonment or more, or the possibility of violating bail conditions is judged to be high. Attorneys and families are granted prompt access to detainees. Detainees held without bail pending trial generally are segregated from the other elements of the prison population.

Although neither the Constitution nor the law addresses exile, the Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

There is a well-developed system of federal and state courts, with the High Court at its apex. Almost all criminal trials are conducted by courts established under state and territorial legislation. The Federal Court and the High Court have very limited roles to play.

The law provides for the right to a fair trial, and an independent judiciary generally enforces this right.

When trials are conducted in local courts, magistrates sit alone. In higher courts, namely the state district or county courts and the state or territorial supreme courts, trials usually are conducted before a judge and jury. The jury decides on the facts and on a verdict after a trial conducted by a judge.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such practices, and the Government generally respects these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution does not provide for freedom of speech and of the press; however, in two decisions the High Court has indicated that freedom of political discourse is implied in the Constitution. The High Court also has supported implied constitutional freedom of speech and of the press involving public political discourse. Nevertheless, citizens and the media freely criticize the Government without reprisal. Government officials occasionally have won libel suits against the independent media; however, such judgments have not impeded vigorous media criticism. An independent press, an effective judiciary, and a functioning democratic political system combine to support freedom of speech and of the press.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

While the right to peaceful assembly is not codified in law, citizens exercise it without government restriction. There is no explicit right to freedom of association; however, the Government generally respects this right in

practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respects them in practice.

The Government encourages immigration by skilled migrants, family members, and refugees.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, subject to certain geographic and time constraints on claims lodged by asylum seekers who may already have sought asylum in other countries. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. There is no provision for first asylum. Federal immigration officials adjudicate claims for refugee status with UNHCR standards as a basis for review. Legal assistance is provided upon request to those detainees who are making their initial visa application or refugee status claim.

In September Parliament passed legislation that retroactively removed the right of any noncitizen to apply for a permanent protection visa, if that person's entry was unlawful and occurred in one of several "excised" territories along the country's northern arc: Christmas Island; Ashmore and Cartier Islands; the Cocos Islands; and any sea or resource installation designated by the Government.

Under the law, persons who arrive at the border without prior authorization to enter the country automatically are held in immigration detention but may be released pending further adjudication of their asylum claim if they meet certain criteria--including age, ill-health, and experiences of torture or other trauma. Undocumented arrivals whose claim for asylum cannot be immediately verified (the majority of asylum seekers) are detained for an often-prolonged asylum adjudication process. Upon approval of a claim, a temporary protection visa valid for 3 years is given, affording access to medical insurance and social services but without provision for family reunification or right of reentry to the country. After 3 years, a temporary protection visa holder's case is subjected to a primary review by Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). If denied, applicants have a right to appeal the decision successively to the Minister for Immigration and Multicultural and Indigenous Affairs, an independent Refugee Review Tribunal, and a Federal court. A full protection visa may be issued at any stage of the asylum adjudication process. As the 3-year temporary protection visa was introduced in 1999, there is no clear evidence yet as to how persons with an expiring temporary protection visa will be treated. Before 1999 those who claimed a fear of persecution were either issued or denied permanent protection visas, providing for full residence and employment rights, with no intermediate measures.

In 2000-01 the Government recorded 4,141 unlawful arrivals in the country on 54 boats. The large number of asylum seekers entering the country since 1999 slowed the processing of protection claims while DIMIA acquired additional staff and resources. Previously, a primary decision on application for refugee status could be made in an average of 6 weeks. In late 1999, 80 percent of asylum seekers received a decision within 32 weeks. During the year, officials attempted to process 80 percent of primary decisions within 14 weeks (with 8 additional weeks required on average if a case is appealed to the Minister for Immigration and the Refugee Review Tribunal). A small number of asylum seekers are detained for years, while their cases are reviewed and appealed. During the year, the Government and DIMA agreed that detention of asylum seekers generally will not be funded for longer than 14 weeks, giving the agency a financial incentive to expedite case handling. The detention policy has led to extensive litigation initiated by human rights and refugee advocacy groups, which charge that the sometimes-lengthy detentions violate the human rights of the asylum seekers. In September HREOC criticized the new Border Protection Act and related legislation, charging that they failed to apply human rights protections equally within all territories.

Citing the U.N. International Covenant on Civil and Political Rights (ICCPR), HREOC claimed that the country is not fulfilling its pledge to ensure that all individuals within its sovereign territory receive the basic human rights protections recognized in the International Covenant on Civil and Political Rights. HREOC claimed further that under the Convention of the Rights of the Child (CROC), the country's mandatory immigration detention policy violates a child's right not to be deprived of his or her liberty unlawfully or arbitrarily (see Section 5).

HREOC also claimed that the newly instituted Migration Amendment Bill improperly abridged asylum seekers'

rights to pursue legal proceedings against the federal government for breaches of human rights obligations. Other NGO's such as Human Rights Watch have leveled comparable criticism.

During the year, there were hunger strikes and protests over allegedly poor sanitary conditions, inadequate access to telephones, and limited recreational opportunities at immigration detention facilities. In April a detention center guard pled guilty to abusing a detainee. During the year, there were riots at the Port Hedland and Woomera Detention Centers (see Section 1.c.).

In February Philip Flood, a retired diplomat, provided the results of his year-long inquiry into immigration detention centers, which the Government had commissioned. After visiting all six centers and interviewing dozens of persons, Flood concluded that the Woomera Detention Center had infrastructure and management shortcomings, and the Government had exerted inadequate oversight of the security firm hired to manage the facility. He found that poor supervision at Woomera had enabled a minority of guards to handle detainees in a humiliating or verbally abusive manner. Flood reported improper handling of a child abuse complaint at Woomera as well. Sixteen changes to procedures were recommended, including many to improve the welfare of children at the facilities. The Government publicly supported the Flood report's recommendations for correcting the deficiencies.

In June Members of Parliament's Joint Standing Committee on Foreign Affairs visited the six detention centers. Their subsequent report alleged inadequate sanitary facilities and claims of alienation and isolation by detainees. The Members of Parliament (M.P.s) recommended a 14-week limit on detention terms, an ombudsman for detainees, and segregation of troublesome asylum seekers. At year's end, DIMIA was making efforts to implement the M.P.s' recommendations in consultation with a new Independent Detention Advisory Committee created during the year to advise the Government.

During the year, ships carrying would-be asylum seekers were denied permission to enter the country's ports (or territorial waters). The asylum seekers allegedly were attempting to enter the country illegally. Some of the ships were rerouted to the country's offshore immigration detention facilities on Christmas Island (Australia) and the countries of Nauru and Papua New Guinea. In some cases, the would-be asylum seekers reportedly took actions designed to force the Government to allow them to enter the country's territorial waters and to land, such as jumping overboard or setting fire to their ships. In these cases, naval vessels effected rescues but did not allow the rescued persons to land or enter territorial waters.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In November citizens elected the Liberal-National Party Coalition to a third 3-year term of office. There also were elections in four of the country's eight states and territories during the year; the Australian Labor Party won all four elections.

In November 1999, voters rejected a referendum to amend the Constitution to become a republic.

There are no legal impediments that prevent women and indigenous people from holding public office; however, the percentage of women in government and politics does not correspond to their percentage of the population. Approximately 25 percent of federal parliamentarians are women, approximately the same as at the end of the last Parliament. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office.

The percentage of Aboriginals in government and politics does not correspond to their percentage of the population. The deleterious effects of poor educational achievement and a generally inferior socioeconomic status have contributed significantly to the underrepresentation of Aboriginals among political leadership. One Aboriginal was elected to the Federal Senate in the October 1998 elections. During the year, an Aboriginal woman was elected to the West Australian state parliament (the first indigenous woman to be elected to a state legislature) and four Aboriginals, including a woman, were elected to the Northern Territory legislative assembly.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups in general operate without government restriction, investigating and publishing their findings on human rights cases. However, although the Government has cooperated with a number of human rights groups, it did not agree with the specific

conclusions of several reports.

The most significant of these groups is the federally funded but independent HREOC. Overall, the number of complaints of discrimination received by the HREOC fell from 1,317 in 1999-2000 to 1,263 in 2000-01, a drop of 4 percent. Approximately 56 percent of all cases were declined because they did not fall under HREOC's jurisdiction or no discrimination had been shown, 35 percent were resolved through conciliation, 8 percent were withdrawn before action could be taken, and 1 percent were referred for further action.

In July 2000, the U.N. Human Rights Commission urged the Government to do more to secure a stronger decisionmaking role for indigenous Australians over their traditional lands and natural resources. The Commission also urged the Government to do more to provide remedies to members of the "Stolen Generation" (see Section 5). In addition the Commission recommended review of mandatory sentencing policies (see Section 5) and mandatory detention of illegal arrivals (see Section 2.d.). The Government responded that many of the recommendations were neither necessary nor desirable and reiterated its belief that mandatory detention of illegal arrivals was consistent with its treaty obligations. In October the newly-elected government of the Northern Territory repealed the territory's mandatory sentencing laws (see Section 5).

In March 2000, the International Labor Organization's (ILO's) Commission on Freedom of Association made a series of recommendations regarding the country's labor laws, especially the Workplace Relations Act and the Trade Practices Act (see Sections 6.a. and 6.b.). The Government stated in response to the recommendations that the ILO's comments "reflect an inadequate understanding of Australian law," and stated that the ILO failed to understand the domestic role that certain labor laws played. The Government rejected all of the ILO's recommendations.

In March 2000, the UN Working Group on Arbitrary Detention sought approval from the Australian Mission in Geneva to visit Australia's immigration detention facilities. The response to the request initially was delayed; later, the Government decided not to extend an invitation to the group.

In August 2000, the Government announced the results of a review of its cooperation with U.N. human rights treaty committees. While maintaining its commitment to involvement with the committees, the Government, as a result of the review, decided to limit visits by such committees to cases where a "compelling reason" exists for the visit. In addition the Government stated that it would not delay removal of unsuccessful asylum seekers who appealed to one of the U.N. Human Rights mechanisms; previously, such persons had been allowed to remain pending the resolution of the appeal of their cases to such U.N. bodies.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on these factors, and the Government and an independent judiciary vigorously enforce the prohibition.

In its 1999-2000 report, the HREOC stated that it received eight complaints about discrimination based on sexual orientation. According to a study in 2000 by the Australian Institute of Criminology, 37 murders of homosexual men were found to be hate crimes in New South Wales between 1989 and 1999. No other state of Australia collects statistics on or identifies gay hate-related homicides.

Women

Violence against women is a problem. Social analysts and commentators estimate that domestic violence may affect as many as one family in three or four, but there is no consensus on the extent of the problem. While it is understood that domestic violence is particularly prevalent in certain Aboriginal communities, only the states of Western Australia and Queensland have undertaken comprehensive studies into domestic violence in the Aboriginal community. It is agreed widely that responses to the problem have been ineffectual.

The Government recognizes that domestic violence and economic discrimination are serious problems and the statutorily independent Sex Discrimination Commissioner actively addresses these and other areas of discrimination. A 1996 Australian Bureau of Statistics (ABS) study (the latest year for which statistics are available) found that 2.6 percent of 6,333 women surveyed who were married or in a common-law relationship had experienced an incident of violence by their partner in the previous 12-month period. Almost one in four women who have been married or in a common-law relationship have experienced violence by a partner at some time during the relationship, according to the ABS study.

Prostitution is legal or decriminalized in many areas of the states and territories. In some locations, state and

local governments inspect brothels to prevent mistreatment of the workers and to assure compliance with health regulations.

There were 14,074 victims of sexual assault recorded by the police in 1999 (the latest figures publicly available; they do not distinguish by gender), a decrease of 1.8 percent from 1998. This amounts to approximately 74 victims of sexual assault per 100,000 persons. Spousal rape is illegal under the state criminal codes. Prostitution is legal or decriminalized and occurs throughout the country; however, child sex tourism is prohibited within the country and overseas.

In the past, the occurrence of female genital mutilation (FGM), which is criticized widely by international health experts as damaging to both physical and psychological health, was insignificant. However, in the last few years, small numbers of girls from immigrant communities in which FGM is practiced have been mutilated. The Government has implemented a national educational program on FGM, which is intended to combat the practice in a community health context. The program is designed to prevent FGM, to assist women and girls who already have been subjected to it, and to promote a consistent approach to the issue nationwide. The Government also has allocated funds for the development of state and territory legislation to combat FGM. All states and territories except Queensland and Western Australia have enacted legislation against FGM. In all States and Territories where FGM legislation exists, it was a crime either to perform FGM or to remove a child from the jurisdiction to have FGM performed. Punishment for these crimes can include up to 7 years in prison.

Trafficking in women from Asia and the former Soviet Union for the sex trade is a limited problem that the Government is taking steps to address (see Sections 6.c and 6.f.).

Sexual harassment is prohibited by the Sex Discrimination Act. The latest HREOC report (covering July 1, 2000 to June 30) does not specifically identify complaints of sexual harassment, but combines them with complaints of sex discrimination.

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women's rights organizations at the federal, state, and local levels. A federal government-funded Office of the Status of Women monitors women's rights. The federal Sex Discrimination Commissioner receives complaints and attempts to resolve those that are deemed valid. According to the HREOC 2000-01 report, sex discrimination complaints rose by 4 percent between the 1999-2000 reporting period and 2000-01; 339 new cases were filed during the year. Of these 83 percent were filed by women and 81 percent were employment related. In February the Bureau of Statistics estimated that the ratio of female to male full-time average ordinary weekly earnings was 84.6 percent. However, a study released by the Australian Institute of Management in May 2000 was more pessimistic; it found that women were paid only 66 percent of their male counterparts' wages. This study also found that there were fewer female board members in both large and small companies than the previous year. Some members of opposition political parties have attributed the difference to changes in workplace laws, such as the 1996 Workplace Relations Act, which relies on the use of individual employment contracts that are negotiated privately and thus do not necessarily foster equal pay outcomes. Other commentators have suggested that an "old boy's network" can make it difficult for women to negotiate salaries equal to those of their male counterparts.

Children

The Government demonstrates its strong commitment to children's rights and welfare through its publicly funded systems of education and medical care. The Government provides a minimum benefit of 16.8 percent of the cost of a first child's childcare to all parents (with a smaller benefit for additional children), which increases to as much as 100 percent for the lowest income families.

According to the Productivity Commission's Report on Government Services, which was released during the year, the structure of school education varies among states and territories. Formal schooling begins with 6 to 7 years of primary school followed by 5 to 6 years of secondary school, depending upon the state or territory. Education is compulsory, free, and universal in all states and territories for children between 6 and 15 years of age (and to 16 years of age in Tasmania). Most children in urban areas attend school regularly, and children in rural areas participate in school through radio programs or receive government subsidies for boarding school. The report states that 67 percent of all children completed 12 years of schooling (normally through the final year of secondary education).

The Government provides universal health insurance to all citizens from birth on a copayment basis. There is no discrimination between children and adults or between males and females in the provision of health care.

The federal Human Rights and Equal Opportunity Commission receives complaints regarding children and

attempts to resolve those that it finds valid. Similarly, the six states and two territories investigate complaints of neglect or child abuse and institute practical measures aimed at protecting the child when such complaints prove founded. The Government has enacted strict legislation aimed at restricting the trade in, and possession of, child pornography, and which further allows suspected pedophiles to be tried in Australia regardless of where the crime was committed. There is no societal pattern of abuse.

The Government and domestic nongovernmental organizations (NGO's) have responded promptly to the problem of a small number of children who have been smuggled into the country, generally for the sex trade (see Sections 6.c. and 6.f.). The NGO End Child Prostitution, Pornography and Trafficking (ECPAT) has conducted an aggressive public education campaign to raise awareness of the issue and offer strategies to combat trafficking in children. ECPAT successfully lobbied the Government to conduct police checks of unaccompanied children entering the country to verify that they are not part of a trafficking operation (see Section 6.f.). In August 2000, the Department of Family and Community Services released its plan of action against the commercial sexual exploitation of children, which was designed to provide the basis for the development of a coordinated governmental response to this problem. However, during the year, there was no information regarding Government action.

In 1992 the High Court ruled that the right to consent to the sterilization of a minor is not within the ordinary scope of parents' or guardians' powers, except in limited circumstances. The High Court ruled that the decision to undertake sterilization procedures should be made by an independent body. The Government made the federal Family Courts the arbiters in such cases. In 1998 the Government made it illegal for a physician to conduct sterilization of a minor without authorization from the Family Court. Physicians who performed such procedures without court authorization were subject to both criminal and civil action. In April a report into the sterilization of disabled girls and young women, commissioned by the Federal Sex Discrimination Commissioner, found that the official data is unreliable and anecdotal evidence suggests that girls continue to be sterilized in numbers that far exceed those that have been lawfully authorized.

During the year HREOC claimed that under the Convention of the Rights of the Child (CROC), the country's mandatory immigration detention policy violates a child's right not to be deprived of his or her liberty unlawfully or arbitrarily (see Section 2.d.).

Persons with Disabilities

Legislation prohibits discrimination against persons with disabilities in employment, education, or other state services. The Disability Discrimination Commissioner promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The Commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities.

The law makes it illegal to discriminate against a person on the grounds of disability in employment, education, provision of goods, services, and facilities, access to premises, and other areas. The law also provides for investigation of discrimination complaints by the HREOC, authorizes fines against violators, and awards damages to victims of discrimination.

The 2000-01 HREOC report states that persons brought 82 complaints to HREOC during the 2000-01 reporting year, along with 20 complaints of discrimination based on intellectual disability, and 24 complaints based on learning disabilities.

Through June 443 complaints of discrimination due to disability were filed with the HREOC, nearly the same as the number of such complaints received 1999-2000. Of these 43 percent were employment related and 27 percent concerned the provision of goods and services.

Indigenous People

The law prohibits discrimination on grounds of race, color, descent, or national or ethnic origin. The Department of Immigration and Multicultural and Indigenous Affairs, in conjunction with the elected Aboriginal and Torres Straits Islander Commission (ATSIC), has the main responsibility for initiating, coordinating, and monitoring all governmental efforts to improve the quality of life of indigenous people. A wide variety of government initiatives and programs seek to improve all aspects of Aboriginal and Torres Straits Islander life. In 2001-02 the Government plans to spend approximately $1.2 billion (A$2.34 billion) on indigenous-specific programs in areas such as health, housing, education, and employment. In real terms, the Government increased funding for Aboriginal benefits by 5 percent over the previous fiscal year. However, in practice indigenous Australians continue to experience significantly higher rates of imprisonment, inferior access to

medical and educational institutions, greatly reduced life expectancy rates, elevated levels of unemployment, and general discrimination, which contribute to a feeling of powerlessness.

Through exercising their right to vote and through the Aboriginal and Torres Straits Islander Commission (ATSIC), Aboriginal and Torres Strait Islander peoples are able to participate in government decisionmaking that affect them. Every 3 years, indigenous people elect representatives to sit on 35 regional councils and the Torres Strait Regional Authority, who in turn choose 17 commissioners comprising the ATSIC Board. The ATSIC Board is an advocate for indigenous people on all issues affecting indigenous people and at all levels of government.

Government programs, including a $399 million (A$785 million) indigenous land fund and a "Federal Social Justice Package," aim at reducing the challenges faced by indigenous citizens.

In 1993 the federal Parliament passed the Native Title Act, which established a National Native Title Tribunal to resolve native title applications through mediation. The Tribunal also acts as an arbitrator in some cases where the parties cannot reach agreement about proposed mining or other development of land. In July 1998, after a compromise with its opponents, the Government was able to pass amendments to the Native Title Act. The ATSIC stated that the amended act provided gains for Aboriginal people but still contains "substantial pain" for native title claimants. Aboriginal leaders were pleased by the removal of the time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continue to express concern that the amended act limits the future ability of Aboriginal people to protect their property rights. The Government also has created an indigenous land fund, which is a trust fund that enables indigenous people to purchase land for their use. The fund is a separate initiative from the Native Title Tribunal, that is, the fund is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

A 1993 survey indicated that 14.25 percent of Australian land is owned or controlled by Aboriginal people, according to the Australian Surveying and Land Information Group. In July 2000, the U.N. Human Rights Commission stated that Australia should do more to secure for indigenous citizens a stronger role in decisionmaking over their traditional lands and natural resources. In March 2000, the U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed serious concern that the Government's Native Title amendments would allow the states and territories to pass legislation containing provisions "reducing further the protection of native title claimants." The CERD declared "unsatisfactory" the Government's response to concerns about the Native Title regime expressed in 1999. The Government responded later that year that the laws were passed after full debate in a democratically elected legislature and that the states have a sovereign right to determine land use policy.

According to the Australian Institute of Criminology (AIC) report released in March, indigenous people were imprisoned nationally at 14 times the rate of nonindigenous people in 1999. The indigenous incarceration rate was 295 per 10,000 persons, while the nonindigenous incarceration rate was 18 per 10,000 persons. The AIC reports that the incarceration rate among indigenous youth was 18.5 times that of the nonindigenous youth population in 1999. Over 45 percent of Aboriginal men between the ages of 20 and 30 years have been arrested at some time in their lives. Aboriginal juveniles accounted for 42 percent of those between the ages of 10 to 17 in juvenile corrective institutions during 2000, according to the AIC. Human rights observers claim that socioeconomic conditions give rise to the common precursors of indigenous crime, for example, unemployment, homelessness, and boredom.

Controversy over state mandatory sentencing laws continued throughout the year. These laws set automatic prison terms for multiple convictions of certain crimes. Human rights groups have criticized mandatory sentencing laws, which they allege have resulted in prison terms for relatively minor crimes and indirectly target Aboriginals. In July 2000, the U.N. Human Rights Commission issued an assessment of the country's human rights record that was highly critical of mandatory sentencing (see Section 4). The federal Government decided not to interfere in what it considered to be the states' prerogative, arguing that the laws were passed by democratically elected governments after full political debate, making it inappropriate for the federal government to intervene. The newly-elected government of the Northern Territory repealed the territory's mandatory sentencing laws in October. Australia's Aboriginal and Torres Straits Islander Commission (ATSIC) welcomed this repeal and called upon Western Australia to follow suit. Western Australia continued to retain its mandatory sentencing laws, which provide that a person (adult or juvenile) who commits the crime of home burglary three or more times is subject to a mandatory minimum prison sentence. Indigenous groups charge that police harassment of indigenous people, including juveniles, is pervasive and that racial discrimination among police and prison custodians persists. Human rights groups have alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of systematic discrimination. Indigenous people believed that police systematically mistreat them; however, there are no government statistics to confirm this perception.

The Bureau of Statistics' report entitled Australia's Health 2000 concluded that the average life expectancy of an indigenous person continues to be 20 years less than that of a nonindigenous person. The infant mortality rate for indigenous children is 2.8 times that of nonindigenous children. The maternal mortality rate for indigenous women has declined to 4 times that of nonindigenous women. According to the Australian Institute of Health and Welfare, between 1998 and 2000 the rates of tuberculosis and hepatitis A and B among indigenous people are respectively 3.9 times as great, 5.2 times greater, and 6 times greater than that of nonindigenous people.

According to the Department of Family and Community Services, indigenous youth are 2.5 times more likely than nonindigenous youth to leave school before completing high school. The ATSIC 2000-01 report estimated that the indigenous unemployment rate is 23 percent, 3 times that of the general population. The report states that indigenous employment mainly was concentrated in government and the indigenous service industry sectors, or in low-skilled jobs. Employed indigenous people were nearly 3 times more likely than nonindigenous people to be working as laborers and related workers and only half as likely to be employed as managers and administrators or in professional occupations, according to the latest available (1998) figures from the Bureau of Statistics.

In August 1999, the Government, in identical motions passed by both Houses of the Federal Parliament, expressed public regret for past mistreatment of the Aboriginal minority; however, the government-sponsored motion of reconciliation was criticized by many Aboriginal leaders as not going far enough. Prime Minister Howard acknowledged the "most blemished chapter in our national history" and submitted a seven-point motion to Parliament. Howard proposed that Parliament express "its deep and sincere regret" that Aboriginals had "suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel." However, both Aboriginal and opposition leaders stated that only a full apology would be sufficient. The Government also continued to oppose an official apology in the specific case of the "Stolen Generation" of Aboriginal children, who were taken from their parents by the Government from 1910 until the early 1970's and raised by foster parents and orphanages. The Government's position remains that the present generation has no responsibility to apologize for the wrongs of a previous generation.

In August 2000, a Federal court ruled against two claims by members of the "Stolen Generation" for government compensation by stating that the two could not prove sufficiently that they had been taken without their parents' consent. However, the presiding judge stressed that the ruling does not settle the question of compensation for "stolen" children as a whole. The ATSIC has proposed the Government establish a Reparations Tribunal to avoid costly future legal battles. In July 2000, the U.N. Human Rights Commission urged the Government to do more to provide a remedy for members of the "Stolen Generation" (see Section 4).

Following the 1997 publication of HREOC's landmark report on the "Stolen Generation" entitled "Bringing Them Home," the federal government allocated $32.75 million (A$63 million) over 4 years to a comprehensive package of initiatives to facilitate family reunion and assist persons to cope with the trauma of separation. At the end of the fiscal year, all $32.75 million had been disbursed. In addition the 2001-02 federal budget allocated a further $27.5 million (A$53.9 million) over a 4-year period for programs under this initiative.

The Government's approach toward aboriginal Australians emphasizes a "practical reconciliation" aimed at raising health, education, and living standards of indigenous people. Following the November parliamentary elections, the Prime Minister Howard designated one minister to serve as both Minister Assisting the Prime Minister for Reconciliation and Minister of Immigration and Multicultural and Indigenous Affairs. The latter portfolio includes oversight of the Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs, previously its own department. The mandate of the Council for Aboriginal Reconciliation, created by Parliament in 1991, expired in 2000. The Council's final report was released in December 2000, and it included recommendations that the federal and state governments set performance benchmarks and timelines for overcoming Aboriginal disadvantage and enact legislation to further the principles of legislation; that Parliament prepare legislation providing for a referendum on deleting a constitutional amendment on racial criteria for voting; and that the Constitution be amended to make racial discrimination unlawful. The report also recommended that appropriate recognition be given to the Aboriginal people and Torres Strait Islanders as the original inhabitants of the land.

Federal and state government leaders agreed in November 2000 to promote the economic welfare of indigenous people and reduce economic disparity. Under the agreement, the federal-state Council of Australian Governments (COAG) will monitor progress toward these goals. The Government has remained silent in response to the Council's recommendations to prepare legislation providing for a referendum on racial criteria on voting and the addition of a new section to the Constitution making racial discrimination unlawful. During the year, there was no formal federal level recognition of the Aboriginal and Torres Strait Islanders as original inhabitants of the land.

Upon its expiration in December 2000, the Council was replaced by Reconciliation Australia, Ltd., a private foundation with government funding, which is charged with continuing the Council's work. Aboriginal and Torres Straits Islander Commission (ATSIC) Chairman Geoff Clark asserted that the council should strive for a true reconciliation guaranteed by both formal recognition of indigenous rights and a treaty. The Government remains opposed to a treaty on the ground that treaties exist only between nations. There was some discussion of reconciliation treaties between Aboriginal Australians and individual states in both 2000 and during the year, but no legislative action on such treaties has been taken.

The Aboriginal Tent Embassy in Canberra, an informal NGO of Aboriginals that has set up a small structure on public land opposite the Old Parliament building, seeks to publicize aboriginal grievances. Other Aboriginal NGO's include groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGO's, such as AI, have monitored and reported on the rights of indigenous people.

National/Racial/Ethnic Minorities

Although Asians make up less than 5 percent of the population, they account for 40 percent of new immigrants. Public opinion surveys have indicated concern with the numbers of immigrants arriving in the country. Upon coming to power in 1996, the Government reduced annual migrant (nonrefugee) immigration by 10 percent to 74,000; subsequently, it has increased to approximately 80,000. Humanitarian immigration figures remained steady at approximately 12,000 per year from 1996 through this year. The significant increase in unauthorized boat arrivals from the Middle East during the past 3 years has heightened citizens' concern that "queue jumpers" and alien smugglers are abusing the country's refugee program. Leaders in the ethnic and immigrant communities expressed concern that increased numbers of illegal arrivals, as well as violence at migrant detention centers, contributed to a few incidents of vilification of immigrants and minorities. Following the September 11 terrorist attacks on the United States, a mosque in Brisbane was subjected to an arson attack, and cases of vilification against Muslims rose. According to the HREOC's 2000-01 report, the number of racial discrimination complaints fell by 18 percent over the previous year. During the 2000-01 reporting year, HREOC received 267 cases, of which 30 percent involved employment; 24 percent involved provision of goods, services, and facilities; and 32 percent involved claims of "racial hatred." Non-English speakers filed 34 percent of the complaints and Aboriginals and Torres Strait Islanders filed 6 percent of the complaints.

Section 6 Worker Rights

a. The Right of Association

The law provides workers, including public servants, freedom of association domestically and internationally, and workers exercise this right in practice. The law also provides for employers to join employer associations. In August 2000, a Bureau of Statistics survey indicated that union membership had declined to 25 percent of the workforce.

Unions carry out their functions free from government or political control, but most local affiliates belong to state branches of the Australian Labor Party (ALP). Union members must make up at least 50 percent of the delegates to ALP conferences, but unions do not participate or vote as a bloc.

Legislation that went into force in 1994 legalized what had always been an implicit right to strike. The 1996 Workplace Relations Act significantly restricted the right of workers to take industrial action by confining it to the period of bargaining, where it remains a protected action. Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action during the formal period of bargaining over a new enterprise agreement. In April 1999, a union in federal court successfully challenged this provision. In its decision, the court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because it was in support of maintaining existing wages and conditions. Associated legislative changes to the Federal Trade Practices law provided companies with resort to legal action if they were subject to secondary boycott action.

The Federal Workplace Relations Act contains curbs on union power, restrictions on strikes, and an unfair-dismissal system. Several unions have objected to the law on the grounds that it allegedly violates the right to assembly provided for in several ILO conventions that the Government has signed. The primary curb on union power is the abolition of closed shops and union demarcations. This provision could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures. In 1999 a union used the act's provisions to withdraw from its larger union structure. Only one enterprise union has been registered under the provisions of the act, the Ansett Pilots Association in December 1999.

The restrictions on strikes include heavy fines for labor unrest during the life of an agreement and tougher secondary-boycott provisions. The unfair-dismissal system further limits redress and compensation claims by employees.

In January a federal court ended a long-running dispute between the BHP mining company and iron ore miners in the Pilbara region of Western Australia by ruling that BHP could offer workers individual employment contracts as an alternative to collective bargaining agreements (see Section 6.b.). During the year, the most notable industrial action was a strike in August by manufacturing workers in the western part of Sydney against a small but essential automotive parts firm, Tri-Star Steering and Suspension. The workers struck after Tri-Star management refused to accept a clause in a proposed enterprise agreement requiring contributions to Manusafe, a union-controlled trust fund established to safeguard employees' annual leave and long service leave entitlements. The dispute closed several of the country's automobile manufacturers; it ended 2 weeks after the Industrial Relations Commission ordered the termination of the bargaining period, thereby forcing the workers to return to work. The manufacturing workers' union vowed to continue its campaign for accumulated employee entitlements to be paid into Manusafe. During the year, the national union federation, the Australian Council of Trade Unions, also campaigned to increase the minimum wage, to establish a new benchmark for weekly working hours, (especially as related to mandatory overtime), and to protect employee entitlements in the face of numerous company collapses. Laws and regulations prohibit retribution against strikers and labor leaders, and they are effectively enforced. In practice employers tend to avoid legal remedies, for example, secondary boycott injunctions, that are available to them in order to preserve a long-term relationship with their unions.

In March 2000, the ILO's Committee on Freedom of Association recommended substantial changes to the Workplace Relations Act and the Trade Practices Act following an examination of complaints of antiunion discrimination raised by Australian and international trade unions over the Government's role in a 1998 labor dispute involving stevedores. Specifically, the ILO recommended that the Government amend the Workplace Relations Act to eliminate the linkage between restrictions on strike action and legal provisions on interference with trade and commerce. The ILO also criticized the Government's use of serving defense force personnel as replacement workers in the 1998 strike. The Government stated in response to the recommendations that the ILO's comments "reflect an inadequate understanding of Australian law." The Government rejected all of the ILO's recommendations.

The stalled negotiations on the issue of union involvement in the workplace between iron ore workers and the BHP mining company ended with a federal court decision in January permitting a company to offer individual contracts to workers (see Section 6.b.). The Bureau of Statistics reported 680 industrial disputes for 2000-01, down 6 percent from the previous year; over the same period, workdays lost due to strikes fell by 21 percent to 393,000.

Unions may form and join federations or confederations freely, and they actively participate in international bodies. However, in March 2000, the ILO's Committee on Freedom of Association also recommended that the Government take measures, including amending legislation, to ensure that in the future trade union organizations are entitled to maintain contacts with international trade union organizations and to participate in their legitimate activities. The Government rejected this recommendation.

b. The Right to Organize and Bargain Collectively

The law at all levels (federal, state, and territories) provides workers with the right to organize and bargain collectively, and the law protects them from antiunion discrimination; the Government respects these rights in practice. However, in Western Australia, the 1997 Labour Relations Legislation Amendment Act amended several pieces of legislation, stripping workers of some protections against discrimination for trade union activities. Although workers cannot be fired for belonging to a union, laws permit individual employment contracts that override awards systems established through collective bargaining and impose complicated prestrike ballot requirements.

At a federal level, the negotiation of contracts covering wages and working conditions has shifted from the centralized awards system of the past to enterprise-level agreements that are certified by the Australian Industrial Relations Commission (AIRC). In 2000-01, the AIRC certified 8,409 enterprise agreements, which was an increase of 52 percent from the number certified in 1997-98. The federal, state, and territorial governments administered centralized minimum-wage awards and provided quasi-judicial arbitration of disputes, supplemented by industry-wide or company-by-company collective bargaining. The Workplace Relations Act also provides for the negotiation of Australian Workplace Agreements (AWA's) between employers and individual workers. These agreements are subject to far fewer government regulations than the awards. At present the AWA's are required to be roughly equivalent to basic working conditions in the award that would apply to the sector to which the firm belongs. The Office of the Employment Advocate reports that 194,815 AWA's have been filed since March 1997, covering 3,609 employers. In March 2000, the ILO

recommended that the Government amend legislation so that workplace agreements do not undermine the right to bargain collectively; the Government rejected this recommendation. In January a federal court ruled that the BHP mining company could offer individual employment contracts with superior conditions (as compared to workers covered by collective bargaining agreements) to iron ore miners in the Pilbara region of Western Australia. The court ruled that workers could not be compelled to accept the individual work agreements, and unions retained the right not only to represent employees who supported collective bargaining but also those who elected to accept an individual work agreement. This decision ended a long running dispute between BHP, which had refused to negotiate a collective agreement, and the iron ore miners.

There are no export processing zones. The Darwin Trade Development Zone, Northern Territory, attempts to increase exports via a geographically defined free trade zone. In practice the Darwin initiative is focused almost exclusively on its Asian neighbors to the north and west.

c. Prohibition of Forced or Compulsory Labor

Although there are no federal laws prohibiting it, forced labor, including forced and bonded labor by children, generally is not practiced. While there were such instances in the past, there were no reports of this activity during the year. There were infrequent press reports of trafficking in women in the textile, clothing, and footwear industries, sometimes as bonded labor (see Section 6.f.). This limited problem usually involves ethnic minorities in small operations in their homes. Trafficking in persons, particularly in women (but also children) for the sex trade, is a limited problem (see Sections 5 and 6.f.).

The country has ratified ILO Conventions 29 (1932) and 105 1960) on the abolition of forced labor, and government officials effectively enforce the law.

d. Status of Child Labor Practices and Minimum Age for Employment

There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, which are enforced by state educational authorities, effectively prevent most children from joining the work force until they are 15 or 16 years of age. Federal and state governments monitor and enforce a network of laws, which vary from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations.

The country has not ratified ILO Convention 182 on the worst forms of child labor.

Federal law does not explicitly prohibit forced and bonded labor by children, but such practices generally are not known to occur, although there have been instances of such abuses in past years (see Sections 6.c. and 6.f.). As a result of the discovery in April 1999 of children working in several clothing sweatshops in Sydney and Melbourne, the Attorney General's Department stated that it would study existing laws and consider whether new legislation would strengthen the Government's ability to combat the problem. The federal Government took no action on this problem during the year; however, the state governments of Victoria and New South Wales enacted legislation to strengthen protections for children in the workplace. In November the Victoria state government substantially raised fines for child labor abuses within the state.

Most cases of abuses in the last several years have involved members of ethnic communities from nations where child labor is not uncommon.

Anecdotal evidence suggests that children, mainly from Asia, are being trafficked into the country as sex workers, but the number is unknown.

e. Acceptable Conditions of Work

Although a formal minimum wage exists, it has not been relevant in wage agreements since the 1960's. Instead, 80 percent of workers are covered by differing minimum wage rates for individual trades and professions; all are sufficient to provide a decent standard of living for a worker and family.

Most workers are employees of incorporated organizations. For them a complex body of government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribe a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions are set by a series of "awards" (basic contracts for individual industries). Some awards specify that workers must have a 24 or 48 hour rest break each week while others specify only the number of days off per number of days worked.

Federal or state occupational health and safety laws apply to every workplace.

The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. Reports of abuse of foreign workers generally refer to migrant permanent residents who perform work in their homes in the clothing and construction industries.

f. Trafficking in Persons

Legislation enacted in late 1999 targets criminal practices associated with trafficking, and other laws address smuggling of migrants. Trafficking in persons from Asia, particularly women (but also children), is a limited problem that the Government is taking steps to address. The Government's response to trafficking in persons is part of a broader effort against "people smuggling," defined as "illegally bringing non-citizens into the country." Smuggling of persons--in all its forms--is prohibited by the Migration Act, which calls for penalties of up to 20 years imprisonment. In September Parliament also enacted the Border Protection Act, which authorizes the boarding and searching of vessels in international waters, if suspected of smuggling of persons.

The country is a destination for trafficked women and children. In June the Australian Institute of Criminology (AIC), an agency of the Attorney General's Department, issued a report entitled Organized Crime in People Smuggling and Trafficking to Australia, which observed that the incidence of trafficking appears to be low. The Government, NGO's, and journalists agree that a number of women, and some children, are being trafficked into the country each year, but they are unable to provide reliable estimates concerning the scope of the problem. The Department of Immigration and Multicultural and Indigenous Affairs and the Australian Federal Police (AFP) have determined that women and children from Thailand, the Philippines, Malaysia, China, Indonesia, South Korea, Vietnam, and parts of the former Soviet Union have been trafficked into the country. They are believed to be entering primarily via air with fraudulently obtained tourist or student visas, for purposes of prostitution. There also have been reports of women trafficked into the country from Afghanistan and Iraq. The high profit potential combined with factors such as the difficulty of detection, unwillingness (or inability) of witnesses to testify in investigations, apparently short stays in the country by workers in the sex trade, and previously low penalties when prosecuted have contributed to the spread of groups engaged in these activities. There also has been anecdotal evidence of trafficking in women to work in sweatshops in textile, clothing, and footwear industries as well as in service industries, sometimes as bonded labor.

There have been some instances of women being forced to work as sex workers in the country by organized crime groups. There are some reports of women working in the sex industry becoming mired in debt or being physically forced to keep working, and some of these women are under pressure to accept hazardous working conditions especially if their immigration status is irregular. Some women have been subjected to what is essentially indentured sexual servitude in order to pay off a "contract debt" to their traffickers in exchange for visas, plane tickets, food, and shelter. However, the available evidence suggests that these cases are not widespread. Some women working in the sex industry were not aware prior to entering the country that this was the kind of work they would be doing. Investigations in past years by DIMIA have found women locked in safe houses with barred windows, or under 24-hour escort, with limited access to medical care or the outside world. These women have been lured either by the idea that they would be waitresses, maids, or dancers or, in some cases, coerced to come by criminal elements operating in their home countries. There are also reports of young women and children, primarily from Asia, being sold into the sex industry by impoverished families.

Prostitution is legal or decriminalized in many areas of the states and territories, but health and safety standards are not well enforced and vary widely. In September 1999, the Criminal Code Amendment (Slavery and Sexual Servitude) Act came into force. The act modernizes the country's slavery laws, contains new offenses directed at slavery, sexual servitude, and deceptive recruiting, and addresses the growing and lucrative trade in persons for the purposes of sexual exploitation. The act provides for penalties of up to 25 years' imprisonment and is part of a federal, state, and territory package of legislation. No prosecutions have been brought under this federal law.

Under the act, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Where a person is engaged to provide sexual services and who, because of force or threats, is not free to cease or to leave, those responsible face penalties of up to 15 years' imprisonment, or 19 years if the victim is under age 18. A person who deceptively induces another

person to provide sexual services faces a penalty of up to 7 years imprisonment, or 9 years if the victim is under age 18. Under the laws of the various states, it is illegal for an adult to have sex with a minor.

Another government initiative was the 1994 Child Sex Tourism Act, which provides for the investigation and prosecution of citizens who travel overseas and engage in illegal sexual conduct with children. Under the act, there have been 11 prosecutions, resulting in 7 convictions. Another case was pending at year's end.

During the year, the Customs Service increased monitoring of all travelers (men, women, and children) entering the country who it suspected were involved in the sex trade, either as employees or employers.

In September the Department of Immigration and Multicultural and Indigenous Affairs created an antitrafficking unit in New South Wales to assess the extent of trafficking in the Sydney area; at year's end, the assessment was ongoing. In October Australian Aid (AUSAID) began a development project on the prevention of trafficking in Southeast Asia. Fieldwork in specific Southeast Asian states is to begin in 2002. Through AUSAID the country also has sponsored training curses for travel agents and others to help prevent child sex tourism. It has participated in a multidonor U.N. Development Program project focussing on trafficking in women and children and an International Organization for Migration project to assist in the return and reintegration of trafficked and vulnerable women in Southeast Asian countries.

There are no NGO's devoted specifically to trafficking victims; however, trafficking victims may obtain assistance from NGO's that run shelters for women and youth, sex worker organizations, and Project Respect, a consortium of organizations that combats exploitation or trafficking of adults and children for pornography. Some of these assistance organizations receive government funding; others are funded privately.